

AO 94 (Rev. 12/03) Commitment to Another District

<b>UNITED STATES DISTRICT COURT</b>			
EASTERN		District of NORTH CAROLINA	
UNITED STATES OF AMERICA V. JAVIER ALEJANDRO		<b>COMMITMENT TO ANOTHER DISTRICT</b>	
DOCKET NUMBER		MAGISTRATE JUDGE CASE NUMBER	
District of Arrest	District of Offense	District of Arrest	District of Offense
		7:08-MJ-1010	S1 97CR25 (LTS)
<b>CHARGES AGAINST THE DEFENDANT ARE BASED UPON AN</b> <input checked="" type="checkbox"/> Indictment <input type="checkbox"/> Information <input type="checkbox"/> Complaint <input type="checkbox"/> Other (specify)			
charging a violation of 21                      U.S.C. § 846			
<b>DISTRICT OF OFFENSE</b> SOUTHERN DISTRICT OF NEW YORK			
<b>DESCRIPTION OF CHARGES:</b> Conspiracy to distribute and possess with intent to distribute narcotics			
<b>CURRENT BOND STATUS:</b> <input type="checkbox"/> Bail fixed at \$                      and conditions were not met <input type="checkbox"/> Government moved for detention and defendant detained after hearing in District of Arrest <input checked="" type="checkbox"/> Government moved for detention and defendant detained pending detention hearing in District of Offense <input type="checkbox"/> Other (specify)			
<b>Representation:</b> <input type="checkbox"/> Retained Own Counsel <input checked="" type="checkbox"/> Federal Defender Organization <input type="checkbox"/> CJA Attorney <input type="checkbox"/> None			
<b>Interpreter Required?</b> <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes                      Language: Spanish			
<b>DISTRICT OF</b>			
<b>TO: THE UNITED STATES MARSHAL</b> You are hereby commanded to take custody of the above named defendant and to transport that defendant with a certified copy of this commitment forthwith to the district of offense as specified above and there deliver the defendant to the United States Marshal for that District or to some other officer authorized to receive the defendant.			
<u>4 February 2008</u> Date		<u>Robert J. ...</u> Judge	
<b>RETURN</b>			
<b>This commitment was received and executed as follows:</b>			
DATE COMMITMENT ORDER RECEIVED		PLACE OF COMMITMENT	
DATE		(BY) DEPUTY MARSHAL	
UNITED STATES MARSHAL			

THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
SOUTHERN DIVISION  
CASE NO. 7:08-MJ-1010

FILED IN OPEN COURT  
2-7-08 elh  
Dennis P. Pavarone, Clerk  
US District Court  
Eastern District of NC

UNITED STATES OF AMERICA )  
 )  
 vs. ) **ORDER**  
 )  
 JAVIER ALEJANDRO )

This matter having come before this court for an identity hearing pursuant to Rule 5(c)(3)(D), Fed. R. Crim. P., to determine whether the defendant presently before the court is the same person identified in the unsealed indictment in the case of *United States of America v. Javier Alejandro a/k/a "Osvaldo" et al.*, S1 07 Cr. 25 (LTS) pending before the United States District Court for the Southern District of New York, and

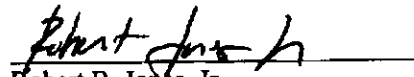
The government having produced, and this court having received, an arrest warrant for Javier Alejandro a/k/a "Osvaldo", Docket No. S1 07 Ct. 25 (LTS), issued by the Honorable Debra Freeman, United States Magistrate Judge for the Southern District of New York; and

This court having determined that based on the proffer by the government through the affidavit evidence of New York City Police Detective Jose Vargas, sworn under penalty of perjury, and the sworn testimony of Agent David Short of the United States Marshal Service, that the defendant presently before this court is same person identified as Javier Alejandro a/k/a "Osvaldo" in the unsealed indictment in the case of *United States of America v. Javier Alejandro a/k/a "Osvaldo" et al.*, S1 07 Cr. 25 (LTS) pending before the United States District Court for the Southern District of New York.

Therefore, pursuant to Rule 5(c)(3)(D), Fed. R. Crim. P., Defendant shall be transferred to the Southern District of New York, the district where the offense as alleged in the unsealed

indictment was allegedly committed.

SO ORDERED, the 4<sup>th</sup> day of February, 2008.

  
Robert B. Jones, Jr.  
United States Magistrate Judge

AO 470 (Rev. 12/03) Order of Temporary Detention

## UNITED STATES DISTRICT COURT

EASTERN

District of

**NORTH CAROLINA**

UNITED STATES OF AMERICA

V.

**ORDER OF TEMPORARY DETENTION  
PENDING HEARING** FILED IN COURT COST

BAIL REFORM ACT 1-28-08 *slc*

Dennis P. Iavarone, Clerk  
US District Court  
Eastern District of NC

Javier Alejandro  
Defendant

Case Number: 1:08-mj-1010

Upon motion of the \_\_\_\_\_ Government \_\_\_\_\_, it is ORDERED that a

detention hearing is set for Monday, 2-4-08 \* at 10:30 a.m.  
Date Time

before \_\_\_\_\_ USMJ ROBERT JONES  
Name of Judicial Officer

COURTROOM NO. 3, ALTON LENNON FEDERAL BUILDING

**Location of Judicial Officer**

Pending this hearing, the defendant shall be held in custody by (the United States marshal)

(\_\_\_\_\_ ) and produced for the hearing.  
Other Custodial Official

Date: 1-28-2008 Robert J. [Signature]  
Judge

\*If not held immediately upon defendant's first appearance, the hearing may be continued for up to three days upon motion of the Government, or up to five days upon motion of the defendant. 18 U.S.C. § 3142(f)(2).

A hearing is required whenever the conditions set forth in 18 U.S.C. § 3142(f) are present. Subsection (1) sets forth the grounds that may be asserted only by the attorney for the Government; subsection (2) states that a hearing is mandated upon the motion of the attorney for the Government or upon the judicial officer's own motion if there is a serious risk that the defendant (a) will flee or (b) will obstruct or attempt to obstruct justice, or threaten, injure, or intimidate, or attempt to threaten, injure, or intimidate a prospective witness or juror.

# United States District Court

FOR THE EASTERN DISTRICT OF NORTH CAROLINA

SOUTHERN DIVISION

NO. 7:08-mj-1010

FILED IN OPEN COURT  
BY 1-28-08 all  
Dennis P. Iavarone  
US District Court  
Eastern District of NC

UNITED STATES OF AMERICA

v.

ORDER

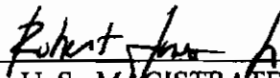
JAVIER ALEJANDRO

Defendant having demonstrated eligibility for appointment of counsel at government expense, the Federal Public Defender is directed to provide representation in this action.

The Court further determines that the defendant is unable to pay the fees of any witness and pursuant to 17(b), F.R.Cr.P., the Clerk shall issue a subpoena for any witness necessary to present an adequate defense to the pending charge or charges.

It is FURTHER ORDERED that the United States Marshal shall serve any subpoena presented to him in this case by the office of the Federal Public Defender, and shall pay the appropriate fees and expenses to witnesses so subpoenaed, in accordance with Federal Rules of Criminal Procedure 17(b) and the May 26, 1987 Standing Order of this Court filed in the Miscellaneous Order Book #4, at page 115.

SO ORDERED this 28<sup>th</sup> day of January, 2008.



U. S. MAGISTRATE JUDGE

1c: ☐ FPD w/CJA 23  
☐ USPO  
☐ U. S. Attorney  
☐ U. S. Marshal

FILED IN OPEN COURT  
ON 2-7-08  
Dennis B. Javarone, Clerk  
US District Court  
Eastern District of NC

AO 472 (Rev. 12/03) Order of Detention Pending Trial

# UNITED STATES DISTRICT COURT

EASTERN

District of

NORTH CAROLINA

UNITED STATES OF AMERICA

V.

JAVIER ALEJANDRO

Defendant

## ORDER OF DETENTION PENDING TRIAL

Case Number: 7:08-MJ-1010

In accordance with the Bail Reform Act, 18 U.S.C. § 3142(f), a detention hearing has been held. I conclude that the following facts require the detention of the defendant pending trial in this case.

### Part I—Findings of Fact

- ☐ (1) The defendant is charged with an offense described in 18 U.S.C. § 3142(f)(1) and has been convicted of a ☐ federal offense ☐ state or local offense that would have been a federal offense if a circumstance giving rise to federal jurisdiction had existed - that is
- ☐ a crime of violence as defined in 18 U.S.C. § 3156(a)(4).
- ☐ an offense for which the maximum sentence is life imprisonment or death.
- ☐ an offense for which a maximum term of imprisonment of ten years or more is prescribed in
- ☐ a felony that was committed after the defendant had been convicted of two or more prior federal offenses described in 18 U.S.C. § 3142(f)(1)(A)-(C), or comparable state or local offenses.
- ☐ (2) The offense described in finding (1) was committed while the defendant was on release pending trial for a federal, state or local offense.
- ☐ (3) A period of not more than five years has elapsed since the ☐ date of conviction ☐ release of the defendant from imprisonment for the offense described in finding (1).
- ☐ (4) Findings Nos. (1), (2) and (3) establish a rebuttable presumption that no condition or combination of conditions will reasonably assure the safety of (an) other person(s) and the community. I further find that the defendant has not rebutted this presumption.

### Alternative Findings (A)

- ☒ (1) There is probable cause to believe that the defendant has committed an offense ☒ for which a maximum term of imprisonment of ten years or more is prescribed in 21 USC 841 ☐ under 18 U.S.C. § 924(c).
- ☒ (2) The defendant has not rebutted the presumption established by finding 1 that no condition or combination of conditions will reasonably assure the appearance of the defendant as required and the safety of the community.

### Alternative Findings (B)

- ☒ (1) There is a serious risk that the defendant will not appear.
- ☐ (2) There is a serious risk that the defendant will endanger the safety of another person or the community.

The only rebuttal offered by the defendant to the presumption was a suggestion that placing defendant in a halfway house would be an adequate condition of release. The court finds that based on defendant's history of flight from the authorities as contained in the government's proffer and related to the pending charges, defendant's immigration status and his lack of established ties to the community that defendant poses a flight risk.

### Part II—Written Statement of Reasons for Detention

I find that the credible testimony and information submitted at the hearing establishes by ☐ clear and convincing evidence ☒ a preponderance of the evidence that

based on the nature of the charges, the apparent strength of the government's case, the defendant's criminal history, including his history of flight as related to the underlying charges, defendant's lack of a sustained community ties to the area, his immigration status, and the lack of a viable third-party custodian, there is no condition or combination of conditions that can be imposed which would reasonably assure the defendant's appearance.

### Part III—Directions Regarding Detention

The defendant is committed to the custody of the Attorney General or his designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal. The defendant shall be afforded a reasonable opportunity for private consultation with defense counsel. On order of a court of the United States or on request of an attorney for the Government, the person in charge of the corrections facility shall deliver the defendant to the United States marshal for the purpose of an appearance in connection with a court proceeding.

2/4/2008

Date

ROBERT B. JONES, JR., USMJ

Name and Title of Judge

\*Insert as applicable: (a) Controlled Substances Act (21 U.S.C. § 801 et seq.); (b) Controlled Substances Import and Export Act (21 U.S.C. § 951 et seq.); or (c) Section 1 of Act of Sept. 15, 1980 (21 U.S.C. § 953a).

CLOSED, INTERPRETER

**U.S. District Court  
EASTERN DISTRICT OF NORTH CAROLINA (Southern Division)  
CRIMINAL DOCKET FOR CASE #: 7:08-mj-01010-RJ All Defendants  
Internal Use Only**

Case title: USA v. Alejandro

Date Filed: 01/28/2008

Date Terminated: 02/04/2008

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Assigned to: Robert Jones

**Defendant (1)**

**Javier Alejandro**

*TERMINATED: 02/04/2008*

*unknown*

Oswaldo

*TERMINATED: 02/04/2008*

represented by **Javier Alejandro**

PRO SE

**Pending Counts**

None

**Disposition**

**Highest Offense Level  
(Opening)**

None

**Terminated Counts**

None

**Disposition**

**Highest Offense Level  
(Terminated)**

None

**Complaints**

Conspiracy to Distribute and  
Possess w/intent to Distribute  
Narcotics

**Disposition**



**Plaintiff****USA**represented by **Eric D. Goulian**

U.S. Attorney's Office

310 New Bern Ave.

Suite 800

Raleigh, NC 27601-1461

919-856-4356

Fax: 856-4006

Email: eric.goulian@usdoj.gov

**LEAD ATTORNEY****ATTORNEY TO BE NOTICED**

<b>Date Filed</b>	<b>#</b>	<b>Docket Text</b>
01/28/2008	●	Set/Reset Deadlines/Hearings as to Javier Alejandro: Initial Appearance - Rule 5 set for 1/28/2008 10:30 AM In Wilmington - Courtroom 3 before Robert Jones. (Deputy Clerk - LE, ) (Entered: 01/28/2008)
01/28/2008	● 1	Charging Documents as to Javier Alejandro - SD of New York (Deputy Clerk - LE, ) (Entered: 01/28/2008)
01/28/2008	●	Arrest (Rule 5) of Javier Alejandro (Deputy Clerk - LE, ) (Entered: 01/28/2008)
01/28/2008	● 2	Minute Entry for proceedings held before Judge Robert Jones:Initial Appearance on Rule 5 Proceedings as to Javier Alejandro held on 1/28/2008 in Wilmington - USA, not present, FPD, Harriott Ormond, USPO, Erik Graf. Dft advises that he is not the person named in the indictment - requests an identity hearing - dft. request two additional days for det/identity hearing - USA directed to advise Mexican Consultant of defts. arrest. (Court Reporter FTR Gold.) (Deputy Clerk - LE, ) (Entered: 01/28/2008)
01/28/2008	● 3	CJA 23 Financial Affidavit by Javier Alejandro (Deputy Clerk - LE, ) (Entered: 01/28/2008)
01/28/2008	● 4	ORDER APPOINTING FEDERAL PUBLIC DEFENDER as to Javier Alejandro. Signed by Judge Robert Jones on 1/28/2008. (Deputy Clerk - LE, ) (Entered: 01/28/2008)
01/28/2008	● 5	ORDER OF TEMPORARY DETENTION as to Javier Alejandro Detention Hearing/IDENTITY HEARING set for 2/4/2008 10:30 AM In Wilmington - Courtroom 3 before Robert Jones. Signed by Judge Robert Jones on 1/28/2008. (Deputy Clerk - LE, ) (Entered: 01/28/2008)



01/28/2008	●	ORAL MOTION to Continue for two additional days by Javier Alejandro. (Deputy Clerk - LE, ) (Entered: 01/28/2008)
01/28/2008	●	ORDER granting Oral Motion to Continue as to Javier Alejandro (1). Signed by Judge Robert Jones on 1/28/2008. (Deputy Clerk - LE, ) (Entered: 01/28/2008)
01/28/2008	●	(Court only) ***Staff Notes as to Javier Alejandro: spoke w/Glen McGorty, AUSA @SD NY and advised of Identity/Detention Hearing and request by Dft. as to notify Mexican Consulate. He advised that he would handle notification of consulate and advise USA in EDNC of hearing set. Faxed Order Appt FPD and setting hearings to USA. (Deputy Clerk - LE, ) (Entered: 01/28/2008)
01/28/2008	●	(Court only) ***Set/Clear Flags as to Javier Alejandro (Deputy Clerk - LE, ) (Entered: 02/04/2008)
02/01/2008	●6	MOTION for Detention by USA as to Javier Alejandro. (Attachments: # 1 Exhibit Letter from AUSA Glenn M. McGorty) (Goulain, Eric) (Entered: 02/01/2008)
02/01/2008	●	MOTIONS as to Javier Alejandro REFERRED to Magistrate Judge: 6 MOTION for Detention Motions referred to Robert Jones. (Deputy Clerk - LE, ) (Entered: 02/01/2008)
02/04/2008	●7	Minute Entry for proceedings held before Judge Robert Jones:IDENTITY/Detention Hearing as to Javier Alejandro held on 2/4/2008 in Wilmington - USA, Chris Thomas, USPO, Erik Graf, FPD, Ed Walker, Interpreter, Carlos Perez - court finds that Mr. Alejandro is the person named in the indictment/warrant - written order to be entered. Detention Hrg - no evidence presented - written order to be entered. Remanded to custody of USMS for transportation back to SDNY. (Court Reporter FTR GOLD.) (Deputy Clerk - LE, ) (Entered: 02/04/2008)
02/04/2008	●	ORAL ORDER as to Javier Alejandro re 6 MOTION for Detention filed by USA - granting - dft. remanded to custody of USMS for transportation back to SDNY - written order to be entered.. Signed by Robert Jones on 2/4/2007. (Deputy Clerk - LE, ) (Entered: 02/04/2008)
02/04/2008	●8	COMMITMENT TO ANOTHER DISTRICT as to Javier Alejandro. Defendant committed to District of Southern District of New York. Signed by Robert Jones on 2/4/2008. cpy. to USMS-Wilm. (Deputy Clerk - LE, ) (Entered: 02/04/2008)
02/04/2008	●9	ORDER of Detention Pending Trial as to Javier Alejandro re 6 MOTION for Detention, Order. Follows oral order of 2/4/2008.. Signed by Robert Jones on 2/4/2008. (Deputy Clerk - LE, )

		(Entered: 02/04/2008)
02/04/2008	●	ORAL ORDER as to Javier Alejandro - court finds that Mr. Alejandro is the person named in the unsealed indictment. Written order to entered. Signed by Robert Jones on 2/4/2008. (Deputy Clerk - LE, ) (Entered: 02/04/2008)
02/04/2008	● <u>10</u>	ORDER as to Javier Alejandro re Oral Order. Follows oral order of 2/4/2008.. Signed by Robert Jones on 2/4/2008. (Deputy Clerk - LE, ) (Entered: 02/04/2008)
02/04/2008	●	(Court only) Terminate Deadlines and Hearings as to Javier Alejandro:, ***Terminated defendant Javier Alejandro, pending deadlines, and motions., ***Set/Clear Flags as to Javier Alejandro (Deputy Clerk - LE, ) (Entered: 02/04/2008)
02/04/2008	●	RULE 5 docs sent to SDNY via email (John Michael McMahon) as to Javier Alejandro. (Deputy Clerk - LE, ) (Entered: 02/04/2008)